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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,748	03/16/2004	Toshinori Mimura	P24938	1174
7055 7590 01/14/2008 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER NICOLAS, FREDERICK C	
			ART UNIT 3754	PAPER NUMBER
			NOTIFICATION DATE 01/14/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
pto@gbpatent.com

Office Action Summary

Application No.

10/800,748

Applicant(s)

MIMURA ET AL.

Examiner

Frederick C. Nicolas

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) 1-3 and 5-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-7 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/926,588.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 4 is rejected under 35 U.S.C. 102(e) as being anticipated by Snodgrass et al. 5,516,429.

Snodgrass et al. disclose a viscous material application apparatus (col. 2, ll. 52-62), which comprises a main body (124) having a pressurized chamber (130) for storing a viscous material, the pressurized chamber connecting through to a discharge port (16), a viscous material supply device (116) for transferring the viscous material under pressure to the pressurized chamber, a discharge pressure regulating device (120) for regulating a discharge pressure of the viscous material by increasing and decreasing a capacity of the pressurized chamber when the viscous material inside the pressurized chamber is pressurized and discharged (col. 5, ll. 52-56), wherein the discharge pressure regulating device includes an actuator (hydraulic fluid), and a diaphragm (126) which is engaged by the actuator and which transforms under influence of the actuator and increases and decreases capacity inside the pressurized chamber (col. 5, ll. 49-67).

Response to Arguments

3. Applicant's arguments filed 10/18/2007 have been fully considered but they are not persuasive. Applicants argue that Snodgrass et al. fail to disclose "a diaphragm

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which is engaged by an actuator” as recited in claim 4 and the hydraulic fluid of Snodgrass being “an actuator” is not reasonable in view of the meaning which would be given to the term “actuator” by one having ordinary skill in the art, and particularly when viewed by one having ordinary skill in the art in light of the disclosure of the present application. These arguments are not well founded. MPEP 2111 claim Interpretation Broadest Reasonable Interpretation states: “claims must be given their broadest reasonable interpretation”. During patent examination, the pending claims must be “given the broadest reasonable interpretation consistent with the specification”.

According to Microsoft Bookshelf’s Dictionary, the definition of an “actuator” encompasses “one that activates” and the definition of “engage” encompasses “to enter or bring into conflict with; to interlock or cause to interlock”. Snogross et al. specifically disclose “an actuator (hydraulic fluid), a diaphragm (126) and the diaphragm being actuated by the actuator (hydraulic fluid). Since the claimed terminology “actuator” is broad enough to encompass “one that activates” and the definition of “engage” encompass “to enter or bring into conflict with; to interlock or cause to interlock”.

Therefore, the reference of Snogross et al. fairly met the claim limitations. Any remaining arguments have been fully addressed in the above rejection.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

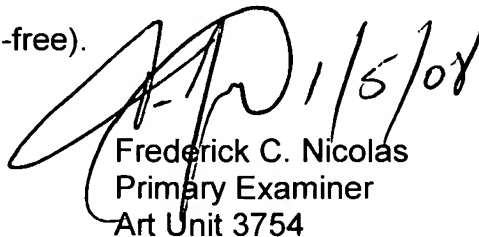
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver, can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN
January 5, 2008


Frederick C. Nicolas
Primary Examiner
Art Unit 3754